

**BEFORE THE BOARD OF PUBLIC ASSISTANCE
OF THE STATE OF MONTANA**

In the matter of the TANF Cash
Assistance Administrative Disqualification
Fair Hearing of Claimant One and Claim-
ant Two

} **ADMINISTRATIVE
DISQUALIFICATION
HEARING
DECISION No. 03-374**

After proper notice an Administrative Disqualification Hearing was held on February 5, 2003 which was initiated by Hill County Office of Public Assistance to disqualify Claimant One and Claimant Two from receiving TANF Cash Assistance due to an alleged intentional program violation. The Administrative Disqualification Hearing was conducted by telephone between Hill County Office of Public Assistance, Havre, Montana and the Hearing Officer, Office of Fair Hearings, Department of Public Health and Human Services, Helena, Montana. From the record the Hearing Officer now makes the following disposition of the case.

REPRESENTATION

Tana Boldt, Program Compliance Investigator, represented Hill County Office of Public Assistance (hereinafter Hill County). Claimant One and Claimant Two did not appear for their Administrative Disqualification Hearing. A return receipt notice was sent to Claimant One and Claimant Two on January 6, 2003. Claimant Two acknowledged receipt of the notice on January 7, 2003. This hearing can be held without Claimant One and Claimant Two being present as the Department has discharged it's responsibility under ARM 37.78.505 by sending notice through certified mail.

IDENTIFYING INFORMATION

Hill County alleges that Claimant One and Claimant Two did not timely report when Claimant One became employed and began earning income. Hill County

believes this withholding of facts to be an intentional program violation and thus has petitioned to disqualify Claimant One and Claimant Two from receiving TANF Cash Assistance for 24 months.

EVIDENTIARY RULING

There were no objections to the evidence presented.

FINDINGS OF FACT

1. On October 3, 2000, Claimant One and Claimant Two filed their latest application for public assistance. This couple has been on assistance for several years. Claimant One and Claimant Two signed this application with the understanding that they must accurately report to Hill County any changes in their household situation within 10 days of knowledge of the change. The application warns the applicant that it is unlawful to knowingly make false statements, misrepresent facts or conceal information to obtain benefits. Penalties for knowingly and intentionally concealing information were provided.

2. Claimant One and Claimant Two were sent notices of reporting requirements on October 19, 2001 and August 15, 2002. They signed a Redetermination Checklist on September 10, 2001 and a Redetermination Report on August 28, 2002. Claimant One and Claimant Two have already been disqualified for an intentional program violation. They were adequately informed of the reporting requirements.

3. On August 28, 2002, Claimant Two filed a Change Report informing Hill County that Claimant One had new employment that started on July 25, 2002. This was well past the 10 day reporting requirement and resulted in issuance of TANF benefits for August 2002 that they were not eligible for.

4. On October 11, 2002, the Department sent Claimant One and Claimant Two notice that due to the information received, they may be disqualified from the

TANF Cash Assistance Program. Claimant Two acknowledged receipt of the notice on October 17, 2002 but they did not respond. A second notice was sent on October 25, 2002 along with a Waiver to Administrative Disqualification Form. They did not respond to the second notice or sign the waiver.

5. Claimant One and Claimant Two have been previously disqualified from the TANF Cash Assistance Program due to an intentional program violation. Hill County is seeking a second disqualification.

CONCLUSIONS OF LAW

1. Federal statutory authority to operate a fraud control program is provided by 42 U.S.C.616. If an individual is found to have committed an intentional program violation by federal or state court or pursuant to an administrative hearing, the needs of such individual shall not be taken into account in determining eligibility for TANF Cash Assistance for a certain period of time.

2. Procedures and requirements for Hill County when an individual appears to have committed an intentional program violation can be found at ARM 37.78.505.

3. According to ARM 37.78.505(1), an intentional program violation is any willful action by an individual which consists of a false or misleading statement or misrepresentation, concealment or withholding of facts or any other action intended to mislead, misrepresent, conceal or withhold facts.

4. The Hearing Officer must carefully consider the evidence and determine whether clear and convincing evidence exists that an intentional program violation was committed. ARM 37.78.505(5)

5. Eligibility determination for TANF Cash Assistance is based in part on household income. ARM 37.78.420. Households are required to report changes in income. Changes in income are to be reported within ten days of date the change

becomes known to the household. ARM 37.78.507. Claimant One and Claimant Two committed and intended to commit an intentional program violation in defiance of the above TANF Cash Assistance regulations and rules by purposely withholding the fact Claimant One was employed for over 30 days before reporting the employment to Hill County. Clear and convincing evidence has been presented by Hill County that Claimant One and Claimant Two committed an intentional program violation by withholding information regarding household income. This constitutes a misrepresentation, concealment and withholding of facts by Claimant One and Claimant Two in violation of the Federal and State regulations.

6. If it is determined through an administrative disqualification hearing that an individual on TANF Cash Assistance has committed an intentional program violation the period of disqualification shall be twelve months for the first violation, 24 months for the second violation, permanently for the third violation. ARM 37.78.505(10). Claimant One and Claimant Two shall be disqualified from the TANF Cash Assistance Program for a period of 24 months as this is a second violation for both of them.

ORDER

As set out in the foregoing Findings of Fact and Conclusions of Law, Hill County Office of Public Assistance has properly determined that Claimant One and Claimant Two have committed an intentional program violation. Claimant One and Claimant Two are to be disqualified from the TANF Cash Assistance Program for 24 months with such period to begin according to the applicable Federal and State regulations.

NOTICE: If a party disagrees with this Decision, a request for board review may be made by filing notice of appeal to the Board of Public Assistance, P.O. Box 202953, Helena, Montana 59620. The notice of appeal must be received within fifteen days of the mailing of this decision.

DATED: February _____, 2003.

Harlan Rudolf
Hearing Officer

CERTIFICATION OF MAILING

I certify that I have mailed a true and correct copy of the above FAIR HEARING DECISION by depositing same in the U.S. Mail postage prepaid on this _____ day of February, 2003 at Helena, Montana as follows:

Claimant One AND Claimant Two
Address
City, ST Zip

Cynthia L Wilcox
Administrative Assistant

c: Tim Whitney, Hill Co OPA
Tana Boldt, QAD
Program Compliance